

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Call to Order: By **CHAIRMAN DAVE LEWIS**, on February 16, 2001 at 8:00 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Edith Clark (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary
Connie Welsh, OBPP

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: Human and Community Services
Division, Disability Services
Division, Child Support
Enforcement Division, Senior
and Long-Term Care, 2/16/01

DISCUSSION AND EXECUTIVE ACTION IN HUMAN AND COMMUNITY SERVICES DIVISION

{Tape : 1; Side : A; Approx. Time Counter : 0.8-1.5}

Pat Gervais, Legislative Fiscal Division (LFD), went over the first issue on the wrap up sheet **EXHIBIT(jhh39a01)**, the Temporary

Assistance for Needy Families (TANF) Maintenance of Effort (MOE). There is a \$397,179 reduction in the TANF MOE due to the implementation of a tribal TANF plan by Fort Belknap.

{Tape : 1; Side : A; Approx. Time Counter : 1.5 - 6.6}

Hank Hudson, Administrator of Human and Community Services, went over the Division's recommendation regarding the reduction of MOE **EXHIBIT(jhh39a02)**. The recommendation addresses the issue of the match for the federal child care money and provides some protection if Fort Belknap does not operate a plan that is allowable to be counted as maintenance of effort. To assume that any money going to Fort Belknap could be counted as maintenance of effort is a risk since they can run any type of program they want.

Bob Tallerico, Fiscal Bureau Chief for Human and Community

Services, summarized measures already taken by the Committee. The Committee reduced TANF MOE from 77%-75%, which freed up \$395,000. The Division would like to maintain TANF MOE at 77%. There would still be \$397,000 available that could be used for the child care match. Including the reduction in the Food Stamp Issuance Contract at \$27,000 in the first year and \$107,000 in the second year, there would be a surplus of \$79,500 in the first year, and a deficit of \$159,000 in the second year. If the subcommittee chose to move that first surplus into the second year, then there would only be a deficit of \$79,916.

{Tape : 1; Side : A; Approx. Time Counter : 6.6-11.6}

In further Committee discussion, **SEN. WATERMAN** asked why this was better than yesterday's drawdown. **Mr. Hudson** explained that it maintains some funds and flexibility in case the work that Fort Belknap does with their general fund money does not count as maintenance of effort. It also covers the match for child care. The Committee is still short on child care match by \$80,000.

Ms. Gervais explained that the Department is short \$345,000 in FY02 in needed match for child care. Based on action taken by the Committee to reduce the maintenance of effort to 75%, the Committee has already funded child care match for the first year. The Department was short \$664,000 in the second year, \$395,000 of which was funded with the reduction in maintenance of effort to 75%. An additional \$135,000 was funded with the reduction in the food stamp issuance contract. Based on the action to reduce maintenance of effort to 75%, the shortfall for child care matching drawdown is \$133,651 over the course of two years.

In further discussion, **Mr. Hudson** said that his Division could handle it if the Committee took the first year and left them the second year. **Ms. Gervais** continued that if the Committee

increases maintenance of effort back to 77%, only \$135,000 of the \$1 million that the Department needs for child care matching funds has been covered with the food stamp issuance contract. If the Committee leaves the maintenance of effort at 75%, the Department would need \$133,000 for the biennium of the \$400,000 annual maintenance of effort reduction. If the Committee took one year's worth of maintenance of effort, it would leave the Department roughly \$265,000 more general fund than is currently needed for the child care match.

{Tape : 1; Side : A; Approx. Time Counter : 11.6-16.7}

Gail Gray, Director of the Department of Health and Human Services, brought up the issue of Child Support Enforcement and its shortfall of \$357,000. She said that the Department would come to the Committee with a significant proposal for moving some money around. **Ms. Gervais** said that if the Committee leaves MOE at 75%, then it would have \$397,000 per year reduction, approximately \$800,000 general fund reduction for the biennium. An additional \$133,000 for the biennium is needed to fully fund the child care matching, which would leave approximately \$667,000. **CHAIRMAN LEWIS** summarized the issues as they stand at this point. If the Committee were to leave the maintenance of effort at 75% and take it both years of the biennium, the enhanced child care match requirement would be fully funded; \$200,000 could be applied to Child Support Enforcement; and there would be about \$467,000 left.

{Tape : 1; Side : A; Approx. Time Counter : 16.8-19.5}

Motion: **REP. LEWIS** moved **TO KEEP THE MAINTENANCE OF EFFORT AT 75%, TO REDUCE THE MAINTENANCE OF EFFORT \$397,000 ANNUALLY AND TO MOVE \$133,000 TO CHILD CARE MATCHING FUNDS AND \$200,000 TO CHILD SUPPORT ENFORCEMENT DIVISION.**

Discussion: **REP. JAYNE** asked if more could be given to Child Support Enforcement. The Committee said that could be dealt with later. **Ms. Gervais** restated the motion. **Director Gray** commented that Child Support Enforcement needed \$200,000 per year, but that the Department could work with the stated amount.

Vote: Motion **carried unanimously.**

{Tape : 1; Side : A; Approx. Time Counter : 19.6-25.0}

Ms. Gervais went over the line items for FAIM Phase II requested by the Committee **EXHIBIT(jhh39a03)**. **SEN. COBB** asked if they were line item, but not restricted. **Ms. Gervais** suggested that the Committee may wish to line item with language for hitting targeted spending levels more easily if there is an annual rather than biennial appropriation. **CHAIRMAN LEWIS** remarked that there may need to be more flexibility if the Department were unable to

get a program started. **Ms. Gervais** said that the potential was there for that, but that language could be inserted in HB 2 to cover that contingency.

{Tape : 1; Side : A; Approx. Time Counter : 25.0-26.7}

Motion/Vote: SEN. COBB moved FAIM PHASE II-R ITEMS AS A LINE ITEM BIENNIAL APPROPRIATIONS. Motion carried unanimously.

{Tape : 1; Side : A; Approx. Time Counter : 28.6}

REP. JAYNE commented that she had been contacted by the Salish and Kootenai who wanted to know if they were eligible for the TANF funds that had been allocated.

Hank Hudson, Administrator of Human and Community Services, explained that when a tribe develops its own TANF plan it cannot draw from both the state and the tribal block grants. Since the Department is using current year funds for all of the activities under FAIM Phase II R, the legal opinion is that both federal block grants cannot be drawn. The only exception would be if the Tribe wanted to bid on one of the contracts to serve people who were not in its services population, for example, serving non-Indians in Lake County. **Ms. Gervais** said that there is opportunity to use non-assistance dollars to send to the Tribes, but that the federal regulations are tricky to work within.

**DISCUSSION AND EXECUTIVE ACTION IN CHILD SUPPORT ENFORCEMENT
DIVISION**

{Tape : 1; Side : A; Approx. Time Counter : 34.1}

Director Gray discussed with the Committee the budget reductions or reallocations to fund Child Support Enforcement Division **EXHIBIT(jhh39a04)**. She went over the reallocation of \$125,000 per year of general fund money to Child Support Enforcement Division. Each of the Divisions in the Department contributed some of the funding to cover the deficit in Child Support Enforcement. The Department needs \$357,000 per year and the Committee has given \$100,000 per year; this reallocation gives an additional \$125,000 per year. This would put the Department closer to the needed funds to cover Child Support Enforcement and would allow for draw down of the federal money that comes with it. With the additional \$100,000, the Department would like the Committee to restore 18 FTE to the Division after which it would still be short \$125,000.

{Tape : 1; Side : A; Approx. Time Counter : 42.4-51.2}

Motion: SEN. WATERMAN moved TO APPROVE THE DEPARTMENT PLAN TO REALLOCATE FUNDS AND PROVIDE \$250,000 FOR THE BIENNIUM TO CSED AND RESTORATION OF 18 FTE.

Discussion: Originally, the Committee cut \$700,000, **Director Gray** has suggested \$250,000 in reallocations that the Department would make. The Committee has given them \$200,000 so far which leaves them \$250,000 short to fully reinstate the reduction.

Vote: Motion **carried unanimously.**

DISCUSSION AND EXECUTIVE ACTION IN DISABILITY SERVICES DIVISION

{Tape : 1; Side : B; Approx. Time Counter : 0.1-5.5}

Ms. Gervais went over the Disability Division wrap up. The first item was an LFD issue concerning the federal medical participation rate (FMAP). This issue was that the change in the FMAP resulted in a general fund shift of \$273,000. The LFD calculation was based on including decision packages because it appeared that the decision packages had not been funded at the correct FMAP rate. After meeting with the Department and the Budget Office, **Ms. Gervais** verified that the decision packages were funded correctly and concurred with the Department's estimate that the reduction is actually \$215,000. The Committee has allocated that \$273,000 within the Department. The Division indicated that it could use a portion of the \$500,000 additional appropriation to cover the \$58,000 difference in the two calculations.

The Department submitted a plan to spend the additional general fund appropriation. **Joe Mathews, Administrator of Disability Services Division**, said that his Division would do the things that it had discussed with a smaller dollar amount.

Motion/Vote: SEN. WATERMAN moved TO APPROVE THE RECOMMENDED SPENDING PLAN . Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 5.5-8.7}

Ms. Gervais went over the proposed language for Disability Services Division on the purple sheet handed around **EXHIBIT (jhh39a05)**.

The first and second paragraph conflict with one another so the Committee would not want to adopt both. The first paragraph allows the Department to pursue federal funds without committing any future general funds, and the second paragraph would allow the Department to refinance. The nature of the expenditures included would commit future general funds. The authority to pursue federal funds is implied but not specifically stated, but a statement could be included for clarification.

{Tape : 1; Side : B; Approx. Time Counter : 8.7 - 10.2}

Motion/Vote: SEN. WATERMAN moved TO ACCEPT PARAGRAPH 2 WITH ADDED LANGUAGE TO INCLUDE FEDERAL SPENDING AUTHORITY. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 10.2-22.6}

The third paragraph on the sheet (Exhibit 5) deals with the provider wage issue. It indicates that \$3,098,317 in general fund and \$2,997,541 federal funds are to be used for the equalization of the direct care worker wages. The Department is directed to allocate the funding proportionately based upon measures that demonstrate recruitment and retention difficulties.

SEN. WATERMAN requested information on provider rate increases and direct care staff funding. Mr. Mathews responded that there is an increase for direct care workers in the previously approved budget and with the additional \$400,000 given to the Division this morning, there is a 1% flat rate increase for provider rates. The Department would prefer flexibility to give the flat increase and work to get as much as possible in the provider rate side. In response to a question from SEN. COBB, Mr. Mathews said that the language is fairly restricted and makes the Department come up with a methodology to judge one provider against another while all are having direct care problems. The Department does not want to pit one against another and would prefer to give the increases across the board.

REP. JAYNE commented that she likes the language as it is since testimony indicated that some areas were not receiving the amount of money that they needed, and this language allows those areas to receive more emphasis. Ms. Gervais responded to a question from SEN. WATERMAN that the language was focused at direct care workers because the proposal was focused on the provider wage parity issue. This language could be amended to include the provision of some provider rate increases other than the direct care wage issue.

SEN. COBB went over a new proposal for the Committee. He said that he would like to see this money go to direct care employees. Mike Hanshaw, Administrator of Senior and Long-Term Care Division, has agreed to take \$300,000 a year in Title XX for Adult Protective Services and in return he will give \$300,000 general fund to Mr. Mathews. The Committee could then give Mr. Mathews direction on how to spend it through provider rate increases or flexibility to use that money around. Mr. Mathews has agreed to take the \$300,000 in general fund and it could be matched in addition to the 1%.

SEN. COBB said that he does not care if the Committee wants to be specific or give flexibility to the Division. **Mr. Mathews** said that depending on the Committee direction, the Division could recalculate and it would fund a decent provider rate increase if it all went there. **SEN. WATERMAN** said that she has faith in the Division, and would give it maximum flexibility to address the the areas discussed in the proposal that the Committee just approved.

{Tape : 1; Side : B; Approx. Time Counter : 22.6-26.4}

Motion/Vote: **SEN. COBB** moved TO ADOPT THE LANGUAGE INCLUDED IN THE FIRST SENTENCE OF PARAGRAPH 3. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 26.4}

Ms. Gervais went over the language in the fourth paragraph. The language deals with fully funding Montana Developmental Center (MDC) and the Committee's direction to use that funding to move 32 individuals from institutions to the community and that the population of the two institutions combined at the end of the 2003 biennium should not exceed 88 individuals. If the Division has more than 88 at the two institutions, the Division must certify that community residential settings were not available for the individuals remaining in the institutions.

SEN. WATERMAN commented that she wants the budget presented to the Committee in two years to reflect an increase in funding at the community level and the 88 individual funding at the institutional level. Knowing that the budget is based on the first year, that is not what will happen. Does this language make it clear that those funds are to be removed from the base budget presented to the Legislature? **Ms. Gervais** responded that the paragraph includes the funding as one time only. Whether it appeared in the institution or community budget, it would be removed from the next biennium's base budget, and the Department would have to request that funding.

Mr. Mathews expressed concerns over the language.

{Tape : 1; Side : B; Approx. Time Counter : 32.1 - 32.2}

Motion/Vote: **SEN. WATERMAN** moved TO ADOPT THE LANGUAGE IN PARAGRAPH 4. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 32.8-36.7}

Motion/Vote: **SEN. COBB** moved TO REDUCE \$300,000 TITLE XX EACH YEAR FROM PROGRAM 10 AND TRANSFER IT TO PROGRAM 22 AND REDUCE THE GENERAL FUND \$300,000 EACH YEAR IN PROGRAM 22 AND TRANSFER IT TO PROGRAM 10. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 36.7-41.8}

Ms. Gervais remarked that she had not put the issue of the commitment law on the list, and that the Committee may wish to have the Department address the issue. **Mr. Mathews** said that his staff has been looking at the commitment law and the Committee's request to "close the back door" as a small part of its Olmstead planning. There are legitimate reasons why people are referred to MDC since there may be no other programs for them and they need active treatment. The Department in concert with the court system is looking into the language of the commitment law without hurting those who do need the treatment.

{Tape : 1; Side : B; Approx. Time Counter : 42.2}

Director Gray said that there is a minor language issue in Child Support Enforcement to consider. **Mary Ann Wellbank, Administrator of the Child Support Enforcement Division**, went over the financial distribution data match appropriation language which said that the appropriation is limited to fees for the financial institution data match. The Division would prefer broader language that says "costs associated with" or "direct costs associated with" the financial institution data match since half of the money is for fees to financial institutions and the other half goes to contract administrative services with Tier Technologies.

Ms. Gervais reviewed the adopted language which states that funds included in the item may only be used to support the cost of fees paid by the Child Support Enforcement Division for the completion of financial institution data matches. The Committee could approve language that says that the appropriation may only be used to support the cost of completion of financial institution data matches.

{Tape : 1; Side : B; Approx. Time Counter : 47.3 - 47.5}

Motion/Vote: REP. LEWIS moved AN AMENDMENT TO LANGUAGE SO THAT THE APPROPRIATION MAY ONLY BE USED TO SUPPORT THE COST OF COMPLETION OF FINANCIAL INSTITUTION DATA MATCHES. Motion carried unanimously.

**DISCUSSION AND EXECUTIVE ACTION ON HEALTH POLICY AND SERVICES
DIVISION**

{Tape : 2; Side : A; Approx. Time Counter : 0.1-}

Lois Steinbeck, LFD, discussed Item 9 of Exhibit 1. The Department has provided **Ms. Steinbeck** with the revised fiscal note for SB 332 which will eliminate the Medicaid asset test **EXHIBIT (jhh39a06)**. The Committee has eliminated the Medicaid asset test with the expectation that it will free up CHIP slots,

give flexibility in the program, and reduce some of the workload in the eligibility determination process, in lieu of raising CHIP from 150 to 160% of poverty. SB 332 has just passed out of finance and **SEN. WATERMAN** has attached a contingent voidness to it so that it will not become law without funding.

Motion: **SEN. WATERMAN** moved **TO ADJUST THE APPROPRIATION TO REFLECT THE FISCAL NOTE AMOUNTS.**

Discussion: **REP. JAYNE** asked what the original numbers passed were. **John Chappuis, Financial Operations and Support Services Bureau, Health Policy and Services Division**, went over the numbers \$416,965 FY02 and \$414,812 FY03 for a total of just over \$830,000.

CHAIRMAN LEWIS said that the big plus of this move would be providing services to a lot more people without increasing the poverty limit on the CHIP program. **Mary Dalton, Administrator Medicaid Services and CHIP Bureau, Health Policy and Services Division**, explained that the companion bill for this, SB 332, will allow the Bureau to increase the poverty level of CHIP. Those children currently on CHIP will be moved over to Medicaid. In order to replace the children who moved from CHIP to Medicaid, the poverty level for CHIP eligibility needs to be raised. **REP. CLARK** remarked that it would be seen as an expansion.

CHAIRMAN LEWIS asked how high the poverty level would need to be in order for this to work. **Ms. Dalton** responded that she would be comfortable within the 175 to 185% range. There is no fiscal note, and **SEN. BARRY's** bill makes it very clear that it is only the amount appropriated that can be spent. Responding to remarks made by **SEN. KEENAN** regarding past practices, **Ms. Dalton** said that the Division had to follow Medicaid policy which changed in what income had to be disregarded.

SEN. WATERMAN remarked that more families who are at a lower income level would be served with this change in SB 332. There is also a separate policy issue regarding the authority the Department needs to draw down all the federal CHIP dollars. In FY02 about 1,300 CHIP slots would be freed up, and in FY03 there would be about 2,600 slots.

{Tape : 2; Side : A; Approx. Time Counter : 17.3}

Vote: Motion **carried unanimously.**

Ms. Steinbeck asked if the Committee would like this item in the bill contingent on the passage and approval of SB 332. The Committee decided that the contingent voidness in SB 332 would be

sufficient. The Department wants to know if the Committee would like to act on CHIP eligibility, which would be one of the new proposals in the Executive Budget. **Director Gray** said that SB 338 would handle that.

Ms. Steinbeck stated that the Farmer's Market for WIC would require a general fund appropriation for the biennium. **JoAnn Dotson, Family and Community Health Bureau, Health Policy and Services Division**, said that the request was for \$40,000 in FY02 and \$60,000 in FY03, which would allow a drawdown of \$93,000 in FY02 for a total of \$133,000 in the first year, and a drawdown of \$140,000 in the second year, for a total of \$200,000. This would be \$333,000 over the biennium, which would be brought in for a total funding of \$100,000. **Ms. Dotson** said that the match was not already in the budget, so would need to be appropriated.

{Tape : 2; Side : A; Approx. Time Counter : 22.3-28}

Motion/Vote: REP. LEWIS moved TO APPROPRIATE \$40,000 FOR FY02 AND \$60,000 FOR FY03, PLUS THE MATCHING FUNDS TO APPROVE THE WIC EXPANSION TO COVER FARMER'S MARKET. Motion carried 5-1 with Keenan voting no.

SEN. KEENAN said that he had been waiting for an explanation of this program for months and had never received an answer so would vote no.

There was discussion of the request for training for rural hospitals dealing with trauma. **CHAIRMAN LEWIS** said that he would like to add \$50,000 on top of the \$75,000 already appropriated, adding that it would not be funded through license fees.

{Tape : 2; Side : A; Approx. Time Counter : 28 - 28.5}

Motion/Vote: SEN. WATERMAN moved TO APPROVE AN APPROPRIATION OF \$50,000 PER YEAR GENERAL FUND, PLUS THE FEDERAL MATCH FOR THE TRAUMA PROGRAM. Motion carried unanimously.

Ms. Steinbeck went over the language requiring the Department to report to the Legislative Finance Committee each year of the biennium an analysis of the cost savings due to the addition of the claims adjudication specialists.

{Tape : 2; Side : A; Approx. Time Counter : 31 - 31.2}

Motion/Vote: SEN. WATERMAN moved TO ADOPT THE LANGUAGE, WHICH WOULD REQUIRE THE DEPARTMENT TO REPORT TO THE LEGISLATIVE FINANCE COMMITTEE EACH YEAR OF THE BIENNIUM AN ANALYSIS OF THE COST SAVINGS DUE TO THE ADDITION OF THE CLAIMS ADJUDICATION SPECIALISTS. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 31.4-49.9}

Ms. Steinbeck went over the issue of cutting adult optional services **EXHIBIT(jhh39a07)**. **Ms. Dalton** stated that optional services can be cut, but there is a state constitutional protection on age, and it is questionable if it would survive a state challenge. There are different limits in several programs for children and adults which have not been challenged. The reimbursement rate can be reduced in order to this as well.

SEN. WATERMAN commented that in cutting optional services the reimbursement rate will be reduced and access will be reduced as well. **SEN. COBB** said that provider rates could be reduced, but the numbers of services in the optional services should be reduced as well. The Department should cut areas in which growth exceeds the projections, and then reduce provider rates, optional services, and the number of services provided in other areas.

Mr. Chappuis added that this would be how he would approach it. He also mentioned the possibility of eligibility changes and even looking at cutting services for adults and risking law suits if needed.

SEN. COBB said that he would rather the Department start spending the money and when it runs out to start cutting programs. Cut in areas of growth, and then look past to other Medicaid providers and finally to other divisions. **SEN. WATERMAN** remarked that newly added items should be cut before optional services are cut. **SEN. COBB** suggested that more definite language should be considered. It was decided that the language would be worked on by the Department and staff.

{Tape : 2; Side : B; Approx. Time Counter : 0.9-12}

CHAIRMAN LEWIS introduced **REP. FRITZ** and explained that she had requested that she be allowed to speak to the Committee to help fund her school breakfast program. **REP. FRITZ** explained the school breakfast program and the well-documented link between learning and adequate nutrition. The federal government funds breakfast programs for needy children, which must meet nutritional standards.

REP. FRITZ handed out information on the Montana schools that do not have the federal breakfast program **EXHIBIT(jhh39a08)**. The \$180,000 in funds that she is requesting would be start-up funds for two years to get programs going. Start up would include refrigerators, toasters, and other types of equipment needed to provide breakfast. The average cost of starting a school breakfast program in Montana is \$4,500. **Mr. Hudson** responded to **CHAIRMAN LEWIS** that federal TANF funds could be used to fund this.

{Tape : 2; Side : B; Approx. Time Counter : 12.2-23}

Motion: SEN. WATERMAN moved TO APPROPRIATE UP TO \$180,000 FOR START UP FOR THE SCHOOL BREAKFAST PROGRAM FROM FEDERAL TANF FUNDS.

Discussion: Mr. Hudson said that all TANF money was allocated, and he suggested that the money be taken from the emergency supportive services for working families which has \$1.6 million in the first year. CHAIRMAN LEWIS said that he thought there was \$6.1 million reserve. Mr. Hudson responded that there was \$6 million at the end of SFY02, and that it would be gone by the end of the biennium. In further discussion on the issue, Ms. Gervais responded that the TANF grant is authorized through September of 2002 and that there is a question as to whether unexpended funds would be left by the federal government. The Department estimates that by June 30, 2002, there will be slightly over \$6 million remaining in TANF funds.

{Tape : 2; Side : B; Approx. Time Counter : 23.0-31.4}

Vote: Motion carried unanimously.

SEN. KEENAN discussed the issue of Medicaid reimbursement levels. A few months ago, he received a legislative agenda in which a provider group asked for 200% eligibility for Medicaid. He was surprised since providers are losing money on Medicaid reimbursement and wondered why they would want to lose more. He requested some information on provider costs, operation, capital, billable charges and reimbursement from John Chappuis just to see what the numbers were. In one provider group, Medicaid reimburses 93% of cost and 56% of billable charges. In Medicare, with approximately 60% of all health expense, the costs are 59% of billable charges and reimbursement is 108% of cost. SEN. KEENAN is in the process of trying to authenticate if there is truly a cost shift in Medicare/Medicaid. Cost shift information is presented from the respect of billable charges rather than costs.

{Tape : 2; Side : B; Approx. Time Counter : 33-45.3}

Ms. Steinbeck went over the language in item 15 on Exhibit 1. In order to make sure that the Department does not violate supplemental statutes, in the first year of the biennium the Committee needs to authorize the Department to spend out of appropriations in the second year of the biennium. In the second year of the biennium if cost projections in services are going to exceed appropriations, the Department must reduce all nonmandatory expenditures. At that point, since language states that provider rates do not need to be given, they become nonmandatory expenditures. If one program had cost overruns, the Department would need to reduce all nonmandatory expenditures in other programs to prevent a supplemental from being forwarded to

the Legislature. If the Department adheres to the law, there could be negative provider rate increases the second year of the biennium if there are large enough cost overruns.

SEN. WATERMAN suggested that the Committee not implement the language. **CHAIRMAN LEWIS** said that there is a potential for negative provider rate increases, which could have some major policy problems. **Ms. Steinbeck** said that the original language, anticipated that those Medicaid services that were coming in under budget would implement provider rate increases, and those Medicaid services that were over budget would not and presumably there would still be a supplemental request before the Committee.

**DISCUSSION AND EXECUTIVE ACTION ON SENIOR AND LONG-TERM CARE
DIVISION**

Item 16-a from Exhibit 1, the intergovernmental transfer program appropriation specifying certain amounts that would be transferred to county nursing homes from state special revenue and federal funds in FY02 and FY03 was discussed.

Motion/Vote: **SEN. WATERMAN** moved TO APPROPRIATE \$2,391,456 STATE SPECIAL REVENUE AND \$6,426,597 IN FEDERAL FUNDS IN FY02 AND \$2,690,204 IN STATE SPECIAL REVENUE AND \$7,280,900 IN FEDERAL FUNDS IN FY03 TO TRANSFER TO COUNTY NURSING HOMES. Motion carried unanimously.

Item 16-b from Exhibit 1 is the amount of money that the Department would need for nursing home rate increases after the money has been returned to the counties and they send money back to the state; \$2 million of which would be diverted to general fund.

{Tape : 2; Side : B; Approx. Time Counter : 45.3-51.2}

Connie Welsh, OBPP, commented that one of the items in the letter from Director Swysgood on February 12 **EXHIBIT(jhh39a09)** is the fund switch for the intergovernmental transfer for nursing homes. The general fund comes out of the budget up front. The Executive Budget takes \$2 million in FY02 and \$2 million in FY03 from the general fund nursing home budget.

Ms. Steinbeck explained that if the \$2 million is general fund out of the nursing home program, there will need to be a state special revenue account so that the federal match can be drawn down.

{Tape : 3; Side : A; Approx. Time Counter : 0.3-3.8}

Mr. Hanshew commented that instead of a transfer to general fund from state special revenue, the Division would reduce the general

fund appropriation and substitute a state special revenue appropriation for general fund used as match prior to this. This would mean a rate amount equal to the cost of the provider rate increase already funded. All of the increases in nursing home expenditures for the coming biennium would be dependent on the Department being able to generate the money assumed in the intergovernmental transfer. If for some reason this should fail, the brunt of that failure would be felt in the nursing home budget.

Motion/Vote: SEN. COBB moved TO ADOPT \$1,350,000 STATE SPECIAL REVENUE AND \$3,627,876 FEDERAL REVENUE IN FY02 AND \$1,625,000 STATE SPECIAL REVENUE AND \$4,397,980 FEDERAL FUNDS IN FY03 AMOUNT OF APPROPRIATION TO PAY THE SECOND GENERAL LUMP SUM, ONE TIME PAYMENT TO NURSING HOMES. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 3.8-10.3}

SEN. COBB said if the money does not come in on July 1 of the first year, does it mean that provider rate increases would not be given? Mr. Hanshew said that the earliest that they would find out in FY02 about approval for the state plan amendment would be January or later. There is no way that the Department would know about the 2002 intergovernmental transfer at that time. The intergovernmental transfer that the Department hopes to find out about sooner than that is the remainder assumed in the proposal for this fiscal year, where the Department would submit a state plan before April 1 and find out some time, possibly this summer, whether Health Care Finance Act (HCFA) approves it.

SEN. COBB asked if there was some other way that the \$2 million for the Executive Budget could be provided without taking it directly out of the budget. CHAIRMAN LEWIS said that the Budget Office could go to the revenue estimating committee and request an adjustment of the general fund revenue estimates for this transfer. This could be reflected in the fund balance and the Department could be left out of it. It could be picked up as revenue in the revenue estimate. Ms. Welsh said that this is not currently the proposal. Ms. Steinbeck commented that the Legislature could always choose to accept or reject Executive recommendations and the Committee could choose to put it in the revenue estimates.

Ms. Welsh commented that if the funds come in through the revenue side, the language would tie the revenues coming in to being able to transfer the funds out. The Executive would like to ensure that it has the \$2 million in general fund before the disbursements are made, otherwise the general fund is at risk.

{Tape : 3; Side : A; Approx. Time Counter : 10.3-10.5}

Motion/Vote: SEN. COBB moved TO ADOPT THE LANGUAGE THAT SAYS THAT IN THE EVENT THAT THE DEPARTMENT FINDS IT NECESSARY TO INSTITUTE NECESSARY PROGRAM REDUCTIONS IT IS THE INTENT OF THE LEGISLATURE THAT FUNDS IN DIRECT CARE WAGE INCREASES BE THE LAST ITEM ELIMINATED. Motion carried unanimously.

**DISCUSSION AND EXECUTIVE ACTION ON ADDICTIVE AND MENTAL DISORDERS
DIVISION**

{Tape : 3; Side : A; Approx. Time Counter : 11-18.2}

Ms. Steinbeck remarked that there may be \$500,000 to \$2.2 million general fund excess budget in the mental health budget, but that there is a difference of opinion with OBPP and the Department. There is also a difference of opinion in the caseload estimates and cost of running Mental Health Service Plan (MHSP) in the 2003 biennium **EXHIBIT(jhh39a10)**. **Ms. Steinbeck** suggested that she, the Department, and the Executive get together to iron out any differences. She suggested that action be taken on most items, but that she will come back to the Committee with information that clearly articulates issues.

{Tape : 3; Side : A; Approx. Time Counter : 18.2-31.3}

Motion: SEN. KEENAN moved TO GIVE SPENDING AUTHORITY FOR \$20,000 GENERAL FUND PER YEAR FOR THE OLMSTEAD STATE PLAN PLANNING GRANT AS A ONE-TIME APPROPRIATION.

Discussion: SEN. KEENAN suggested that the money be funneled through the Consensus Council. **Dan Anderson, Administrator of Addictive and Mental Disorders Division (AMDD)**, said that he would have no objection to using the Consensus Council, but without having ironed out some agreement with the Council as to what they would do for the \$20,000, it would be his preference that the money not be so earmarked.

Ms. Steinbeck remarked that the Olmstead Plan for AMDD was to be completed by July 1. **Mr. Anderson** said that the department-wide plan is to be completed by July 1, but that Olmstead compliance is a forever and ongoing thing. **CHAIRMAN LEWIS** expressed some concerns about the responsible entity in ensuring that a plan be completed. **SEN. KEENAN** said that it would be his responsibility as the Chairman of the Mental Health Advisory Committee. **REP. JAYNE** asked how long the study was supposed to take. **SEN. KEENAN** said that \$20,000 is the amount given, but there has been not much information on what deadlines are attached. **SEN. KEENAN** said that he just wanted to make sure that the money is appropriated. **Mr. Anderson** said that it was a 3-year period, at least through the biennium.

CHAIRMAN LEWIS amended the motion to give \$20,000 to AMDD to contract with the Consensus Council to work on the Olmstead state plan. **SEN. KEENAN** commented that **SEN. WATERMAN** had left her proxy with him on this issue.

Vote: Motion **carried unanimously.**

{Tape : 3; Side : A; Approx. Time Counter : 31.3-32.9}

Ms. Steinbeck directed Committee members to page 9 of their decision package spreadsheet **EXHIBIT(jhh39a11)**. **Ms. Steinbeck** said that since the Committee has already adopted the Medicaid caseload estimates for 2002 and 2003, the Medicaid items in these decision packages had already been acted on.

{Tape : 3; Side : A; Approx. Time Counter : 32.9-33.7}

Motion/Vote: **SEN. KEENAN** moved **TO ADOPT THE BASE BUDGET PLUS STATEWIDE PRESENT LAW ADJUSTMENTS AND VACANCY SAVINGS**. Motion carried 4-1 with Cobb voting no.

{Tape : 3; Side : A; Approx. Time Counter : 33.7}

Motion/Vote: **SEN. COBB** moved **TO ADOPT DP 2 ,FY00-FY01 PRI-PASSAR**. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 34.6}

Ms. Steinbeck remarked that DP 4 has already been adopted in the motion on statewide case law adjustments and suggested that executive action on DP 5, DP 26, DP 38, DP 47, DP 50 should all be delayed.

{Tape : 3; Side : A; Approx. Time Counter : 35.5}

Ms. Steinbeck went over the LFD issue regarding budget development for MHSP. The budget developed when the program was being administered as an entitlement. After the budget was submitted to the Budget Office, the Department capped enrollment and began administering the program by the cost per slot. The LFD will come back to the Committee with choices about the cost per slot and the number of slots that the Committee wants to authorize. After Committee action a decision package will be developed to reflect the budget according to program management.

{Tape : 3; Side : A; Approx. Time Counter : 38-38.7}

Motion/Vote: **SEN. KEENAN** moved **TO ADOPT DP 74 MONTANA MENTAL HEALTH NURSING CARE CENTER HOLIDAY, OT, DIFFERENTIAL PAY**. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 38.7-40.1 }

Motion/Vote: SEN. COBB moved TO ADOPT DP 76, MONTANA STATE HOSPITAL HOLIDAY, OT, DIFFERENTIAL PAY. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 40.1-42.9}

Motion: REP. LEWIS moved TO ADOPT DP 82, FAMILY AND CONSUMER SERVICES TRAINING.

Discussion: In response to a question from SEN. COBB regarding these funds and what the Department would do with them that it could not already do, Mr. Anderson said that it will be used to contract with the National Alliance for the Mentally Ill (NAMI) to train consumers, families, and providers on mental illness.

{Tape : 3; Side : A; Approx. Time Counter : 42.9 - 43.1}

Vote: Motion carried 5-1 with Cobb voting no.

{Tape : 3; Side : A; Approx. Time Counter : 43.1 - 51.2}

Ms. Steinbeck reviewed the MHSP staffing issue. The staff positions were added as modified FTE during the 2001 biennium and are not included in the base funding level, but the operating costs are. The Committee may want to ask the Department if it needs the same level of staffing. The program parameters have changed during this session, and it might be appropriate to ask what the needed staffing levels are for ongoing administration.

Mr. Anderson said that the Department has discussed the impact of the capped program on the number of eligibility staff, but believes that it will still need 6. Applicants will still need to be reviewed for eligibility and the workload may even increase if people are calling in to find out where they are on the waiting list or what the status is of their applications. There is also an annual renewal process for everyone on the program. The eligibility staff for CHIP and MHSP are state employees and have been combined and placed in Health Policy Division in order to coordinate programs better.

{Tape : 3; Side : B; Approx. Time Counter : 0.1-2.8}

Motion: REP. LEWIS moved TO ADOPT DP 199, MHSP ELIGIBILITY STAFFING WITH A REDUCTION OF \$11,000 PER YEAR FOR OPERATING COSTS.

Substitute Motion: SEN. COBB made a substitute motion TO ADOPT DP 199, MHSP ELIGIBILITY STAFFING AT 3 FTE WITH A REDUCTION OF \$11,000 PER YEAR FOR OPERATING COSTS.

Discussion: REP. JAYNE asked what the impact of such reductions on the Department would be. Ms. Dalton said that she does not

the think that the Department can do it with 3 FTE. The staff is working between CHIP and MHSP applications at full capacity. If the staff is cut further, the lag-time will probably go over two months. **Ms. Steinbeck** said that since the staff is working on CHIP eligibility, perhaps CHIP funds could be used to offset some of the general fund cost here. **Ms. Dalton** said that the Department will use every bit of CHIP federal funds, but she is not comfortable removing the costs, yet. **SEN. COBB** withdrew his substitute motion.

{Tape : 3; Side : B; Approx. Time Counter : 2.9-3.3}

The Committee voted on the original motion.

Vote: Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 3.3-4.7}

Ms. Steinbeck suggested that the Committee take action on DP 988, Annualization of Utilization Review and Management contract. **Mr. Anderson** explained that this contract is with First Health which does prior authorization of the high level services. Two of the things added to this contract are a greater capacity for retrospective reviews and the regional care coordinators.

{Tape : 3; Side : B; Approx. Time Counter : 4.7-5.5}

Motion/Vote: **SEN. COBB** moved TO ADOPT DP 988, ANNUALIZATION OF UTILIZATION REVIEW AND MANAGEMENT. Motion carried unanimously.

Ms. Steinbeck suggested that the Committee act on DP 993, a proposal to allow the Nursing Care Center to become its own Medicaid purchaser of drugs.

{Tape : 3; Side : B; Approx. Time Counter : 5.6-6.3}

Motion/Vote: **SEN. COBB** moved DP 993, MMHNCC MEDICAID PATIENT PHARMACY STATE SPECIAL REVENUE. Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 6.3-}

Motion/Vote: **SEN. COBB** moved TO ADOPT DP 998, MMHNCC PHARMACY COST INFLATION. Motion carried unanimously.

Ms. Steinbeck explained that DP 999 represents an 8.5% annual rate of inflation in pharmacy costs as well as administrative fees with the contractor.

{Tape : 3; Side : B; Approx. Time Counter : 7.4-13}

Motion: **SEN. WATERMAN** moved TO ADOPT DP 999, THE MSH PHARMACY COST INFLATION.

Discussion: In response to a query from **CHAIRMAN LEWIS, Bob Mullen, Operations Bureau Chief, Addictive and Mental Disorders Division**, stated that 8.5% was the contracted amount with the drug contractor. They also contracted a 25% increase in the management fee as well. **REP. JAYNE** asked if the pharmacy inflation rates were the same throughout the entire Department. **Mr. Anderson** said that there was some variability in the inflation rate since that different divisions are purchasing pharmaceuticals under different conditions. Responding to **SEN. WATERMAN, Mr. Chappuis** said that there would be limited savings to bulk purchasing of pharmaceuticals.

{Tape : 3; Side : B; Approx. Time Counter : 13}

Vote: Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 14.2}

Motion/Vote: **SEN. WATERMAN** moved TO ADOPT DP 136, PROVIDER RATE INCREASE - PASARR. Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 15.2}

Motion: **SEN. WATERMAN** moved TO ADOPT DP 193, LAW ENFORCEMENT AND CRIMINAL JUSTICE TRAINING.

Discussion: **SEN. WATERMAN** said that this training is critical to law enforcement, judges, and local community providers if gatekeeping and regionalization proposals are passed. In response to questions about the training and FTE from **SEN. COBB, Mr. Anderson** said that an employee will work to develop training for these individuals to ensure that they know what the laws and procedures are and what programs are available. The advisory council suggested development of a standardized screening instrument that would be used in local correctional facilities to screen individuals to see if they have serious mental illness, which would be another duty of this FTE. **SEN. COBB** suggested that **SEN. WATERMAN** line item and restrict the FTE. **SEN. KEENAN** suggested one time only as well. **SEN. WATERMAN** said that on one time only it may be difficult to attract an individual to work with such a time limit to the position, but she did agree with the line item. **SEN. COBB** said that he wants it line item restricted so it cannot be counted as one of the vacancies.

CHAIRMAN LEWIS restated the motion to approve DP 193 as a restricted line item.

{Tape : 3; Side : B; Approx. Time Counter : 19.8-35.2}

Vote: Motion carried unanimously.

Ms. Dalton said that vacancy savings had already been taken out of the budget. **Ms. Steinbeck** suggested that since this had been restricted the Committee might like language so that it may only be spent for law enforcement mental health training to which the Committee agreed.

Ms. Steinbeck explained DP 987, which provides the federal match to pay the mental health services benefits of the CHIP eligible children who become eligible for MHSP. She further explained that this is one of the areas of difference between the Executive Budget projections and the LFD budget projections. The Executive continues increases in the number of children eligible in their MHSP projections. Administrative rules say that they will live within the amount of money and will cap enrollment. As enrollment in one kind of eligibility increases, there will be enrollment reductions in other eligibility. The budget has been developed so that even though the Committee has chosen to not authorize an increase in CHIP financial ability, the Department has funded their MHSP caseload increases in CHIP. This issue will be brought to the Committee on Monday. Action on the federal matching funds will not affect the decision in how the Department is directed to continue administration of MHSP.

CHAIRMAN LEWIS asked how this was done if the Committee had not increased eligibility past 150%. If the Department were to appropriate an amount of funds for the MHSP for dual eligible children, Kids Light would not be affected by this since that is TANF funding. **Ms. Steinbeck** explained that the Department has instituted and administered rules that there will be a certain number of slots for eligibility for this program and as costs change, they have changed the allocation of slots. Even if financial eligibility or Medicaid asset tests are not changed, as kids move on and off CHIP, there is a chance that more CHIP eligible kids who are eligible for MHSP will be enrolled in CHIP. There will be a greater federal CHIP authority need to match the mental health services costs for those children, even if nothing else is changed.

Mr. Mullen said that the Department would not need all this authority if it stayed at 150% of poverty, and it is dealt with within the MHSP program. Maybe it would be best to leave things as they are. The Committee agreed to leave it as is, until it resolves CHIP issues. **SEN. WATERMAN** said that should the CHIP eligibility change, then the Kids Light eligibility should be changed to match that so that there would not be children eligible for one and not the other. **Mr. Anderson** said that it could be a problem for Kids Light since there will be a limited amount of money for the program. **SEN. COBB** said that if there is

extra money then that could be moved to the kids in addition with the TANF money, then the Department could do more with kids.

{Tape : 3; Side : B; Approx. Time Counter : 35.2}

Janie McCall was allowed to speak again on children that had been cut off of MHSP. She explained that it was really important for these children to receive case management so that they would receive other services that are critical in keeping children in their homes. In order to keep these services, there would need to be a \$200,000 general fund match in the program. **Ms.**

Steinbeck explained to the Committee that the service mentioned by **Ms. McCall** is targeted case management, which was eliminated as part of the Executive supplemental appropriation mitigation plan. The reductions associated with that were estimated to include a 50% cost shift to other services.

{Tape : 3; Side : B; Approx. Time Counter : 42.3}

Ms. Gervais provided for review the letter staff drafted as instructed by the Committee to the congressional delegation regarding funding for child welfare services **EXHIBIT (jhh39a12)**.

The Committee will meet again on Monday.

ADJOURNMENT

Adjournment: 11:30 P.M.

REP. DAVE LEWIS, Chairman

SYDNEY TABER, Secretary

DL/ST

EXHIBIT (jhh39aad)